

## Message Text

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INFO OCT-01 ISO-00 /005 R

DRAFTED BY EA/RA:RLWALKINSHAW:JG

APPROVED BY EA/RA:RLWALKINSHAW

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P 261954Z JUL 74

FM SECSTATE WASHDC

TO CINCPAC PRIORITY

C O N F I D E N T I A L STATE 162893

E.O.11652: GDS

TAGS: PINS, PGOV, MASS, EAID, LA

SUBJECT: FAA SECTION 32 AND U.S. ASSISTANCE TO LAOS

CINCPAC FOR POLAD

REF: STATE 68545

THE FOLLOWING TELEGRAM, VIENTIANE 3156, IS BEING REPEATED  
FOR YOUR INFORMATION.

"1. THE ROYAL LAO GOVERNMENT (RLG) DOESNOTPRACTICE  
INTERNMENT OR IMPRISONMENT OF ITS CITIZENS FOR POLITICAL  
PURPOSES AND SECTION 32 OF THEFAAOF1973 OUGHT THEREFORE  
NOT AFFECT STATUS OF U.S. ASSISTANCE PROGRAM IN LAOS.

2. FOLLOWING ASSESSMENT RESPONDS PARTICULARLY TO POINTS  
IN PARA THREE REFTEL:

"A) WE ARE AWARE OF NO POLITICAL PRISONERSBEING HELD BY  
THE RLG. APPROXIMATELY 135 NORTH VIETNAMESE ARMY(NVA)  
TROOPS AND PERHAPS 200 CRIMINALS ARE DETAINED IN THE RLG  
PRISON AT SAM KHE, JUST OUTSIDE OF VIENTIANE. THENVA  
ARE, OF COURSE, PRISONERS OF WAR TAKEN DURING PERIOD  
OF HOSTILITIES AND ARE TO BE RETURNED UNDER TERMSOF THE  
LAO PROTOCOL, AND IN ANY EVENT ARE NOT LAO CITIZENS. SO

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FAR AS WE KNOW, THE LAO 'CRIMINALS' ARE PERSONSHELDFOR

TRIAL OR CONVICTED OF OFFENSES UNDER THE LAO PENAL CODE.

"B) THE CONSTITUTION, PROMULGATED IN 1947, PROCLAIMS CERTAIN FUNDAMENTAL RIGHTS FOR THE LAO, INCLUDING 'EQUALITY UNDER THE LAW, FREEDOM OF CONSCIENCE, AND OTHER DEMOCRATIC LIBERTIES WITHIN CONDITIONS DEFINED BY THE LAW.' THE CONSTITUTIONAL PRINCIPLES OF EQUALITY AND LIBERTIES ARE NOT SUBJECT TO AMENDMENT. THE PENAL CODE DEFINES ALL CATEGORIES OF PUNISHABLE CRIMES OR DELICTS AND DOES NOT COUNTENANCE VIOLATING THE RIGHT OF ARBITRARY ARREST OR DETENTION. JUDGES ARE FORBIDDEN TO ESTABLISH A PUNISHMENT WHEN AN ACT IS NOT PUNISHABLE UNDER PROVISION OF THE CODE. THE LAO CONSTITUTION GUARANTEES INDEPENDENCE OF THE JUDICIARY FROM LEGISLATIVE OR EXECUTIVE INTERFERENCE, AND, SO FAR AS WE CAN DETERMINE, THIS PRINCIPLE OF JUDICIAL INDEPENDENCE HAS BEEN GENERALLY APPLIED AND PERSONAL LEGAL RIGHTS UPHELD.

"C) POSITION OF THE HOST GOVERNMENT ON THIS QUESTION, AS EXPRESSED BY ITS OFFICIALS, IS TO RESPECT DEMOCRATIC LIBERTIES FOR THE PEOPLE, HISTORICALLY, UNDER CONDITIONS OF STRESS, AS DURING THE PERIOD OF THE HOSTILITIES, THE MINISTRY OF JUSTICE HAS REMINDED LAW ENFORCEMENT AUTHORITIES THAT THE DEMOCRATIC RIGHTS -- SUCH AS LIBERTY OF CONSCIENCE, OPINION, EXPRESSION, PRESS AND ASSOCIATION -- PROCLAIMED BY THE CONSTITUTION ARE SUBJECT TO THE MAINTENANCE OF DOMESTIC TRANQUILITY, ORDER, AND PUBLIC SECURITY. SUCH RESTRAINTS HAVE TRADITIONALLY BEEN VERY LIGHTLY APPLIED.

"3) THE FOREGOING SUMMARY DOES NOT INCLUDE THE PRACTICES OF THE COMMUNIST LAO PATRIOTIC FORCES (LPF) IN THE ZONE UNDER THEIR CONTROL. EVIDENCE AVAILABLE TO US, NOTABLY FROM RALLIERS AND PRISONERS INDICATES THAT LPF DETAIN IN THEIR ZONE SOME CIVILIANS AND MILITARY PERSONNEL WHOM MIGHT BE CONSIDERED 'POLITICAL' PRISONERS, AS WELL AS PRISONERS CAPTURED IN HOSTILITIES AND ORDINARY CRIMINALS, OUR INFORMATION IS, HOWEVER, SKETCHY AND OUR VIEW IS THAT LPF PRACTICES WITHIN THEIR ZONE SHOULD NOT COME WITHIN THE PURVIEW OF FAA SECTION 32. THE LPF JUST REJOINED THE NEW  
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COALITION GOVERNMENT APRIL 5, AFTER YEARS OF ACTIVE INSURGENCY, THEY RETAIN CONTROL OF THEIR ZONE AND UNDER THE PROTOCOL, WILL DO SO UNTIL FORMATION OF THE PERMANENT COALITION GOVERNMENT AT SOME UNDETERMINED TIME IN THE FUTURE. U.S. ASSISTANCE HAS GONE, AND WILL CONTINUE TO GO, TO CENTRAL GOVERNMENT (PROVISIONAL GOVERNMENT OF NATIONAL UNION) AND WILL IN THE FORESEEABLE FUTURE, BENEFIT THE

ZONE OF THE VIENTIANE SIDE, PRINCIPALLY IF NOT EXCLUSIVE-  
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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** POLITICAL REPRESSION, MILITARY ASSISTANCE, FOREIGN ASSISTANCE, POLITICAL PRISONERS, US CONGRESSIONAL PRESENTATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 26 JUL 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** kelleyw0  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974STATE162893  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** RLWALKINSHAW:JG  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
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**From:** STATE  
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**Office:** ORIGIN EA  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** STATE 68545  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** kelleyw0  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 06 AUG 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <06-Aug-2002 by shawdg>; APPROVED <24 FEB 2003 by kelleyw0>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** FAA SECTION 32 AND U.S. ASSISTANCE TO LAOS CINCPAC FOR POLAD  
**TAGS:** PINS, PGOV, MASS, EAID, LA, US  
**To:** CINCPAC  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005